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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,321	01/22/2004	Marcel Huard	12296-17US-1 IC/ii	2666

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EXAMINER

PIERCE, WILLIAM M

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,321

Applicant(s)

HUARD ET AL.

Examiner

William M. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28,29 and 35-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,29 and 35-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM M. PIERCE
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 112***

Claims 28, 37 and their dependent claims are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to discuss a "card identifier" alone by itself or in combination with a "bet recorder". On pg. 5 of the specification the bet recorder is "for recording at least one gaming bet from a player" and not for showing each bet from the player for future use as argued in applicant's remarks on pg. 12., second paragraph.

Claim Rejections - 35 USC § 103

Claims xxx rejected under 35 U.S.C. 103(a) as being unpatentable over Beltran as set forth in the previous office action In view of Adams 5,743,798.

Beltran does not discuss a dealer console. Adams teaches that adding a dealer console like his 50 to a game like Beltran would have been obvious in order to help automate the dealers tasks that were previously done manually. In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) " The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art..

Claims 37, 38 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porto as set forth in the previous office action and below in response to applicant's remarks and further in view of Adams 5,743,798 for his teachings set forth in the rejection of claim 28 above.

Response to Arguments

Applicant's arguments filed 6/22/05 have been fully considered but they are not persuasive.

On pg. 12 of applicant's remarks it is argued that Beltran does not show a "card identifier" since his bets do not identify "individual cards". Specifically claim 28 calls for the card identifier to "identify a choice by said player of a number n of said betting cards...said number n being at least one". As can be seen (in addition to the new matter rejection set forth above), applicant's argument are not based upon his invention as is being claimed. As called for by

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the applicant's claim, Beltran "identifies a choice by said player of a number n of said betting cards". Nothing in the claim pertains to "individual cards" being identified as is the basis for applicant's argument. In short, in contrast to applicant's position, the do bets of Beltran meet the limitations of applicant's bet identifier as called for in his claims.

As to the bet recorder, applicant argues that Beltran does not show a bet recorder that records each bet from the player for future use. However, a bet recorder used by applicants claims in light of his specification is "for recording at least one gaming bet from a player". As such 202 of Beltran is considered to meet this limitation. Once again there are no such limitations in the claims of a bet recorder "for future use" and this argument is not persuasive. It is not clear what new meaning applicant is trying to give to a "bet recorder". It appears that he wishes to record a history of the bets made by each player. This is clearly not supported by the specification. Even if the specification did contain a reference to a bet recorder, such is considered old and well known to provide a "tally" or spread sheet to record player bets for statistical purposes.

As to the card selector of Beltran his drawing of a plurality of cards meets the claimed limitation of "any one card". Where applicant may believe that drawing of only a single card is some sort of patentable advance, one would have to consider that drawing single indicia in roulette type games such as Allen and Astancha is well known.

Applicant's remarks with respect to the new limitation of the dealers console are considered moot in view of the new grounds of rejection set forth above.

With respect to the "payout calculator", nothing in the claims prevents it from being a manual activity. The only requirement is that it is "for calculating a payout for said player for each of said at least one gaming bet..." Such is clearly met by 208 of Beltran. Alternatively, to have provided an table or electronic calculator to assist a dealer in calculation of the payouts would not be considered a non-obvious.

With respect to Porto, applicant argues that his "invention is required to have at least roulette numbers 1 to 36 and 0". Disclosed in Porto is "the basic rules for...roulette are well known to even non-gamblers" [0005] Inherent in the disclosure of Porto are the traditionally used indicia of roulette. Skill is presumed on the part of those practicing in the art. See *In re Sovish*, 769 F.2d 738, 743, 226 USPQ 771, 774 (Fed. Cir. 1985) and that in evaluating a reference, it is proper to take into account not only the specific teaching of the reference(s) but also the inferences which one skilled in the art would reasonably be expected to draw therefrom. *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). Additionally, one must observe that an artisan must be presumed to know something about the art apart from what the references disclose (see *In re Jacoby*, 309 F.2d, 513, 516, 135 USPQ 317, 319 (CCPA 1962)). Examiner's position with respect to the number identifiers, bet securing numbers and payout calculator is set forth above and is considered fairly taught by the art of record.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mothwurf, Rowe and Levy show gaming devices.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (571) 272-4414.

For **official fax** communications to be officially entered in the application the fax number is (703) 872-9306.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.


WILLIAM M. PIERCE
PRIMARY EXAMINER